2001

Utah State Road Commission v. The Steele Ranch : Brief of Respondent

Utah Supreme Court

UTAH SUPREME COURT

BRIEF

STATE OF UTAH

UTAH STATE ROAD COMMISSION,
Plaintiff-Appellant,

vs.

THE STEELE RANCH,
a Utah Corporation, et. al.,
Defendant-Respondent.

Case No. 13544

BRIEF OF DEFENDANT-RESPONDENT

Appeal from Judgment of the Fifth Judicial District Court of Juab County
Honorable J. Harlan Burns, Presiding

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TABLE OF CONTENTS

CASES CITED

TABLE OF CONTENTS—Continued

TABLE OF CONTENTS—Continued

AUTHORITIES CITED

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NATURE OF THE CASE

This is a condemnation action by the Utah State Road Commission to acquire certain real property in Juab County for the purpose of constructing a Project of the I-15 Freeway.

DISPOSITION IN THE LOWER COURT

The case was tried to a jury on September 20,21, 1973. The jury assessed damages for the condemnation as follows:

Market value of property taken	$21,164.50
Severance damages to remaining property	$75,000.00
Total	$96,164.50

The State Road Commission made a motion for a new trial which was denied by the District Court. The Commission thereupon brought this appeal.

RELIEF SOUGHT ON APPEAL

Respondent seeks to have the judgment of the trial court affirmed.

STATEMENT OF FACTS

Respondent agrees with appellant's statement of the facts with the exception of noting that Dr. Steele's home is an integral part of the ranch operations. Dr. Steele directs the operations of his ranch from his home. The yard adjacent to the home contains the bulk of the other ranch buildings. These facts, repeatedly evidenced in the record, (Tr. 90, 93, 121, 130) were omitted in appellant's statement of facts. The occupation of Dr. Steele is that of a medical doctor *and* a rancher. (Tr. 86) The use of the title doctor alone for Dr. Steele is misleading. It is not indicative of the management of the ranch by Dr. Steele.

The house and yard were owned by Dr. Steele personally and the balance of the ranch by the Steele Ranch corporation of which he was the owner of all the outstanding capital stock. The ranch was then leased

indefinitely by Dr. Steele. The separation of the properties was directed by Dr. Steele's attorney for particular tax benefits and for estate planning. (Tr. 93)

ARGUMENT

POINT I

THERE WAS AMPLE COMPETENT EVIDENCE TO SUPPORT THE JURY'S VERDICT.

Introduction:

Dr. Steele testified as to the value of his ranch. *Nichols on Eminent Domain at* § 18.4(2) states:

> Although there is authority to the contrary, the owner of the land taken is generally held to be qualified to express his opinion of its value merely by virtue of his ownership. He is deemed to have sufficient knowledge of the price paid, the rents or other income received, and the possibilities of the land for use, to have a reasonably good idea of what it is worth. *The weight of his testimony is for the jury,* .... (emphasis added)

In *Salt Lake* N *U.R. Co. v. Schramm et. al.,* 56 Utah 53, 189 P.90 (1820), an eminent domain case in which one of the owners had resided on the premises all her life and had made frequent inquiries into the value of her property, the Utah Supreme Court said that it was proper to allow the owner to give opinion evidence as to the value of the land.

> We do not think any good reason can be assigned why a person who has occupied and used the premises all her life, and has been interested and alert in making inquiry as to its value, may not be as well qualified to speak as the banker, lawyer, *or real estate man,* having more or less to do with the sales and transfers of real property. The means and extent of the knowledge of any witness may be gone into on cross-examination, and rebutted as to value. *No rule can be formulated for determining the means by which a witness shall acquire the necessary knowledge to qualify him to speak that will apply in all cases.* If, under all circumstances, he was in a position to obtain knowledge and form a correct judgment as to values, whether or not by buying, selling, leasing, or using the property for purposes for which it is adaptable is immaterial, so long as the jury is given the benefit of the facts upon which opinion of the witness is based. (emphasis added)

In another eminent domain preceeding, *State v. Dillree,* 25 Utah 2d 184, 478 P.2d 507, (1970), the Utah Supreme Court said,

> Mr. Dillree being an owner of the property, together with his wife, was a competent witness as to the value of the property taken and as to severance damages incurred.

The trial record is replete with testimony indicating Dr. Steele, the landowner, was well qualified to

render an opinion as to the value of his ranch. The doctor-rancher had for a period of fifteen years purchased numerous pieces of property as additions to his ranch. (Tr. 88) These many purchases alone would give him a working knowledge of real estate values in this locality. In addition, Dr. Steele was engaged in the daily operations of his ranch. (Tr. 94) On the basis of this managerial involvement, Dr. Steele testified in profuse detail as to the basis for his estimate of severance damages to his ranch. (Tr. 117, 118, 118, 120, 130, 131).

The adequate basis of the Doctor's testimony is to be vividly contrasted with the dubious testimony given by Victor M. Smith, the State of Utah's expert witness. He had never owned or operated a ranch. (Tr. 227). In Mr. Smith's opinion the nearness of the freeway had no effect on the valuation of the Doctor's home. (Tr. 236, 237). He was oblivious to any intrusion on the privacy to Dr. Steele's home as well as to any adverse aesthetic effects of the freeway. (Tr. 237). Mr. Smith had limited formal training as an appraiser. (Tr. 224). Respondent argues that to label Mr. Smith's testimony as expert and to simultaneously invidiously characterize Dr. Steele's testimony as "inexpert," as appellant in its brief does, is a gross distortion of reality. The jury had a duty to weigh and did evaluate the testimony of Dr. Steele, the landowner, and Mr. Smith, appellant's real estate expert.

Respondents submit that courts should be extremely

cautious in setting aside jury verdicts. Courts must not invade the legitimate province of the jury which is to weigh the evidence. The weighing of the evidence adduced in order to determine the value of real estate in a land condemnation case is extremely subjective. *Nichols on Eminent Domain* at § 18.4 states,

> The value of a particular piece of real estate cannot be definitely determined by the application of any exact principle of science, and even after all the possible information bearing upon the question has been weighed by a person well qualified to judge, *the real value still remains a matter of opinion.* (emphasis added)

Nevertheless despite the highly subjective nature of making evaluations of real estate, it is appellants argument that the testimony of a real estate expert should be dispositive. Their brief on page 14 states,

> In the Dillree case Justice Henriod dissented arguing that the defendant should be bound by the testimony of his own expert witness. ***His logic is instructive in this case.*** (emphasis added)

The entire tenor of appellant's argument is that the jury is bound by an expert's testimony. Their brief speaks of the verdict being "grossly excessive over the experts opinion." If one were to take seriously appellant's argument that the jury is locked in by an expert's testimony then the jury itself would be superflous.

Fortunately for the judicial system this is not the case. *Nichols on Eminent Domain* at § 18-1 states,

> Generally, the arbiter of the facts, in valuing the land appropriated are not limited to the knowledge which they acquire from the evidence adduced .... *Value is always a matter of opinion. The opinions of expert witnesses are merely advisory.* If they agree with common sense and human experience well and good. If, however, they differ from ordinary observation, human experience and common sense *they may well be ignored.* (emphasis added)

The correct function of expert and opinion evidence in land condemnation cases was set forth at 27 *Am.Jur.* 2d at 317 as follows:

> Essentially, the value of land appropriated by eminent domain is a question to be established by expert testimony. Indeed, the value of a parcel of land taken by eminent domain is always a matter of opinion and may be proved by opinion evidence .... *The opinions of experts as to value, however, are not to be passively received and blindly followed, but are to be weighed by the jury and judged in view of all the testimony in the case* and the jury's own general knowledge of affairs, and are to be given only such consideration as the jury may believe them entitled to receive. (emphasis added)

Since no error was assigned by the appellant to the

jury instructions given, the respondent would assume they were proper. The instructions stated (**R. 135**):

> Your are to consider the *testimony of all witnesses,* but if after a consideration of all the evidence in this case, you believe that any witness who has testified to the value of the land and the damage by reason of severance thereto gave testimony which is not the reasonable value thereof, *you may disregard that testimony even though it comes from an expert.* (emphasis added)

The instructions also (**R. 139**) informed the jury to evaluate the testimony of the landowner on the basis of his experience and qualifications and then give it whatever weight they deemed proper. Respondents argue that this is precisely what the jury did.

There was an enormous range in testimony as to the damages incurred, for example, the plaintiff's expert fixed damages at $39,303.20, the defendant's expert said $68,299.75, and the landowner fixed damages at $127,852.00. Such discrepancies in value make the advisory capacity of such testimony to the jury even more imperative. Such extremes are to be expected and arise from the almose incredible complexities involved in the task of valuation.

Appellants in their brief state that the jury "chose to completely ignore the testimony of either expert appraiser." They also assert that the jury chose the "personal, inexpert, unobjective feelings of Dr. Steele

rather than the clear preponderance of expert opinion based upon market values and experience." There is no evidence in the record which affords even a scintilla of support to such a sheer guess as to what went on in the minds of the jurors. It is pure speculation of the most blantant type which overlooks Dr. Steele's expertise.

Appellants had ample opportunity in their cross-examination of Dr. Steele to reveal any deficiencies in his testimony. The factual basis of his testimony remained unscathed after appellant's cross-examination.

The court in *Board of County Commissioners of El Paso County v. Barron,* 28 Colo. App. 283, 487 P.2d 579, (1971), an eminent domain case, said,

> Simply because the jury chose one end of the spectrum rather than the middle or lower end is not in itself grounds for reversal, provided there is competent evidence to support the higher figure.

Respondents argue that Dr. Steele's testimony constitutes competent evidence; that an experts opinion evidence is not to usurp the function of a jury; that the jury did in fact utilize the experts testimony but only in it's proper advisory context; that the jury did in fact evaluate the testimony of the landowner and found such testimony competent because it had a substantial basis in fact; that this finding was consequently reflected in the verdict of damages of $96,164.50 which figure was well within the upper spectrum of competent testimony.

Further it is obvious from the jury's verdict that they took the experts opinion as to the values of the land taken and Dr. Steele's value as to severance damage. (Tr. 153-157) (Tr. 220-224) (Tr. 115, 117)

POINT II

THE VERDICT WAS NOT EXCESSIVE.

The sole issue to be resolved by the trial court was the value of the property acquired by the State Road Commission and the resulting serevance damages to the remainder of the Steele Ranch. How much is just compensation to be paid by the State of Utah? What constitutes an excessive verdict?

A verdict based upon substantive evidence must be upheld unless the award is so excessive so as to "shock the enlightened conscience of the court." This is the common-law legal criteria determining if an award is excessive. *Nichols on Eminent Domain* at § 17.3 on land condemnation cases states,

> . . . . the legal criteria for a determination of whether an award is inadequate or excessive so as to warrant adverse action by the court, are said to be similar to those *which govern in common-law actions.* Even in the fact of conflicting evidence, the court will generally refuse to set aside the award or verdict *if there is evidence to sustain the amount awarded and such amount is not palpably inadequate or excessive.* (emphasis added)

Respondents are cognizant of the lattitude allowed by the statement "shock the enlightened conscience of the court" for this is a relative term. Yet, nowhere does the State apply this common-law criteria that the verdict must "shock the enlightened conscience of the court." The nearest approach are their words "to affirm such a grossly excessive award." These words however, in their brief are used in the limited context of grossly excessive relative to respondent's expert witnesses valuation. This argument ignores the demonstrated expertise of Dr. Steele's testimony. If the verdict is viewed in the context of Dr. Steele's testimony then it certainly shocks no ones conscience. Certainly it did not shock the conscience of the trial judge.

The cases cited by appellant on excessive damages are distinguishable. In *State v. Silliman,* 22 Utah 2d 33, 448 P2d 347, (1958), one of the reasons the verdict was set aside was because of the palpable ignorance of the subject matter manifested by the witnesses. This is not true in the instant case.

The case of *State Highway Commission v. Barnes,* 443 P.2d 16, (Mont. 1968), was remanded because a foundation was not laid that the owner had some peculiar means of framing an intelligent and correct judgment as to the value of the property. The court said that the owners testimony was "not only conjecture but highly speculative." This is in sharp contrast with the instant case in which Dr. Steele exhibited his detailed knowledge of the ranching operations and the severance by the

highway upon these operations with the consequent impairment of the ranch's value. The appellants in their brief made a minor error in alleging the jury in the *Barnes* case returned a value above the expert's opinion. The jury, in fact, awarded a total of $44,379 which was much lower than the experts total valuation of $61,680.

Respondents argue that the question of the excessiveness of an award is obviously not amenable to any fixed formula. *The facts peculiar to each case,* in the light of general principles of valuation, are determinative. In order for a verdict to be judged excessive it must shock the enlightened conscience of the court. Respondents submit that in applying such legal criteria, as governs common-law actions, that a verdict of $96,-164.50 should not shock the conscience of the court. It is not shocking because such an amount is well within the upper spectrum of competent testimony.

POINT III

IT WAS CORRECT TO ADMIT EVIDENCE OF THE VALUE OF DR. STEELE'S HOME BECAUSE UNITY OF OWNERSHIP IS NOT AN INVARIABLE REQUIREMENT TO SEVERANCE DAMAGES.

Appellants unequivocally maintain that "severance damages are not allowed to land which has a different owner than that of the tract from which property was condemned." Appellants cite the case of *Jonas v. State,*

19 Wis. 2d 638, 121 N.W. 2d 235, 95 A.L.R. 2d 880 (1963), as the leading case on severance damages. It is also cited because "the facts in that case are similar to those in the Steele Ranch case."

Neither assertion is correct. The *Jonas* case is actually cited in the A.L.R. annotation as supporting the view *that unity of ownership need not always exist.* See 95 *A.L.R.* 2d Annotation: Eminent Domain-Severance Damages, p. 894. The instant case is easily distinguishable from ***Jonas*** because the ranch is leased back from the corporation, (Tr. 93), while in the ***Jonas*** case there existed no lease. The Supreme Court of Wisconsin said in ***Jonas*** that:

> We might well agree that an owner of one parcel (not taken) who has used it, and has the right under lease or other contract to continue to use it, as a unit with the parcel taken would be entitled to severance damage and the condemnor would be compelled to pay such damage in addition to the value of the parcel taken, considered seperately.

Recovery of severance damages in this case, however, was cited on the ground of insufficiency of evidence to show that the owner of the remaining land had any lease or other contractual right to use the condemned land.

The court in *Kessler v. State,* 251 N.Y.S.2d 487, (1964), said that in "unique circumstances such as those were one individual may well have actual ownership

over several parcels, it would be unrealistic to treat the parcels as seperately owned."

M.T.M. Realty Corp. v. State, 261 N.Y.S.2d 815 (1965), involved two family corporations in which the original corporation was incorporated to acquire real estate for residential development and the other one was set up as a subsidiary to undertake subdivision and development of properties. The court said:

> While it has been held that the mere conveyance of property by an individual to members of his immediate family does not ipso facto constitute unity of ownership sufficient to sustain an award of severance damages, *Kessler v. State of New York,* 21 A.D.2d 568, 251 N.Y.S.2d 487, the Court is satisfied that the corporate entities at bar were truly integrated not only by reason of family ownership but by reason of unity of business purpose and actual practice so as to sustain the Court's determination to treat the parcels conveyed by the parent to its wholly owned subsidiary as an integrated unit.

The court in *Red Apple Rest, Inc. v. State,* 260 N.Y.S.2d 206, (1965), considered a claim for appropriation for highway purposes of contigious parcels of land on both sides of a highway owned by husband and wife and by a corporation which was in turn controlled by the husband. The court said:

> It is our opinion that this court must,

under the Guptill and Kessler cases, look at the realistic ownership and control of the contigious parcels. If we find 'actual ownership,' we must consider contigious parcels as a single tract.

In *Barnes v. North Carolina State Highway Comm.* 250 N.C. 378, 109 S.E.2d 219, the court held:

> *There is no single rule or principle established for determining the unity of lands for the purpose of awarding damages or offsetting benefits in eminent domain cases.* The factors most generally emphasized are unity of ownership, physical unity and unity of use . . . The parcels claimed as a single tract must be owned by the same party or parties. It is not a prerequisite for unity of ownership that a party have the same quality of interest or estate in all parts of the tract . . . . However, there must be a substantial unity of ownership. (emphasis added)

In *Stockton v. Ellingwood*, 96 Cal App. 708, 275 P.228 (1929), the court found a unity of ownership between the part taken and the remaining part of a large parcel of land which was in fact owned by a partnership, although the legal title to some tracts of such land appeared in the name of one partner and other tracts stood in the name of the other partner. The court pointed out that the lands were *used as one parcel by the partners.* The court said:

> . . . . in view of equity it is immaterial in

whose name the legal title to the property stands, whether in the name of one partner or the names of all.

To allow severance damages where a portion of a parcel of land claimed as a single unit is taken by condemnation, unity of ownership between the part taken and the remaining part need not always exist. Condemnation of two parts of land which have been used together for a common purpose may be allowed where the owner of one part has a certain right or interest, although short of ownership, on the other part. See *State ex rel. La Prade v. Carrow,* 57 Ariz. 429, 114 P.2d 891, (1941); *East Av. Municipal Utility Dist. v. Kieffer,* 99 Cal. App. 249, 279 P. 178 (1829); *Jonas v. State,* 19 Wis.2d 638, 121 N.W.2d 235, (1963); *State ex rel. Symms v. Nelson Sand & Gravel, Inc.,* 93 Idaho 574, 468 P.2d 306, (1970); *State ex rel. State Highway Comm. v. Gray,* 81 N.M. 399, 467 P.2d 725 (1970).

Respondents submit that it is not a fixed rule that their must invariably exist a unity of ownership between the part taken and the remaining part; that the substantial reality of common use should and has prevailed over any technical legal nicities; and that many courts have so recognized such substantial realities.

POINT IV

THE STEELE RANCH INCLUDED DR. STEELE'S HOME. BOTH HOME AND RANCH WERE OPERATED TO-

GETHER AS AN INTEGRATED ENTITY.

Respondents argue that the uncontroverted testimony of Dr. Steele was that the ranch and the home were operated as a single unit. Dr. Steele testified that his home was "my ranch headquarters." (Tr. 90) He testified that they were operated together as an integrated unit. (Tr. 93) The doctor often sat on the patio of the home checking on the cattle and purebreds. (Tr. 120) He kept the ranch records at his home (Tr. 92 The ranch and home were one integrated unit and were operated as such. This conclusion finds unrefuted support in the record.

Appellants brief on page 7 alleges the ranch operation is not dependent upon the doctors home,

> The day to day operation of the ranch is conducted by the foreman who lives in the 'ranch house' at the end of the county road east of the freeway. (Tr. 121)

What appellant's brief neglects to note are the questions on the same page which indicate the ranch is managed from the home. Page 121 of the record reads as follows,

Q. Oh, excuse me. And that foreman works on the ranch?

A. Yes.

Q. And he performs the day-to-day operations of the ranch?

A Yes. I oversee and tell him in general what I want.

Q. And he does it and reports back to you?

A. Yes,....

The actual quotation in its entirety completely rebuts appellants quotation.

Appellants in their brief on page 7 make the further statements that:

> While the home is near the subject tract the ranch operation is not dependent upon the location of a doctor's home.

Their brief on page 8 also asserts:

> John Steele could live in any nearby city without affecting the value *or the operation of the ranch.* (emphasis added)

The above statements are totally unsupported by any evidence or testimony.

Appellants brief states that none of the out buildings or corrals "which may be associated with the operation of the ranch are located on the one acre." This infers that the presence of such buildings is indispensible to managing the ranch from the home. Respondents ask only if it is a necessity to have the corrals on this one acre in order to make the home an integral part of the operation of the ranch. Obviously the answer is no.

Furthermore, these buildings are all adajacent to the ranch house and the evidence shows that the one acre separated for the house has two of it's dimensions along the rocky wall south and west of the house. The acre division from the other "yard" property is clearly a convenience description and is otherwise impractical. The ranch buildings are only accessible from the public road through the same gate that serves the house and the yard for the side buildings. This was clearly demonstrated by the aerial photographs. It is and would be impossible to separate the house itself from the ranch side buildings because of their close intimate relationship.

The principle of law is stated at 27 *Am.Jur.* 2d at 139 that with respect to agricultural and rural lands,

> . . if the whole area is used together for a farm, ranch or other appropriate purpose, it is to be considered one property. Moreover the fact that different portions of a farm, ranch, or other rural holdings were acquired from different persons, or are otherwise held under different titles will not prevent its being treated as an entirety in the assessment of damages for a taking of a part, *if the whole area is held and operated as a single property.* (emphasis added)

Respondent submit that the mutual interest and advantage for Dr. Steele would clearly have demanded had he decided to sell, that both tracts be treated as a unit for purposes of evaluation by and sale to a willing

buyer. The Steele ranch and home were inseparable, integrated and were in fact operated as a single property. The record amply supports such a conclusion.

POINT V

THE JURY IMPARTIALLY RENDERED A VERDICT THAT SHOULD BE SUSTAINED.

The appellant urge in Point II of their brief quoting 47 *Am.Jur.*2d Sec. 321, that the trend of authority is to exclude from the juries "all persons who by reason of their business or social relations past or present, with either of the parties, could be suspected of possible bias." This distorts the quotation in its entirety because of the necessary qualification which immediately follows,

> *Nevertheless,* a person may have affiliations and friendships, or *prejudices* and habits of thought, which might lead him to look more favorably or less favorably for one party or the other, upon a case of a particular class or upon a case brought by a particular person or member of a particular class or persons than would the average juror, *which are not sufficiently pronounced to disqualify him for jury service.* (emphasis added)

The relative nature of bias was noted in 47 *Am.Jur.* 2d at 846, which stated:

> However, it has been said that to a greater

> or lesser extent, bias and prejudice form a trait common in all men, and, to fall within the purview of jury disqualification, certain degrees thereof must exist.

In *Siegfried v. City of Charlottesville,* 206 Va. 271, 142 S.E.2d 556, (1965), the court said in a condemnation award that:

> There is no fixed standard to serve as a test in all cases as to what constitutes 'bias or misconduct of or affecting the commissioners or jurors as will warrant setting aside the award.' Each case must be decided upon its own particular facts and circumstances. ***Temple v. Moses,*** 175 Va. 320, 336 8 S.E.2d 262; 29 C.J.S. Eminent Domain 311, p. 1344.

The real question is whether the requisite degree of bias, assuming it to exist in this case, was sufficient to disqualify the jurors who were Dr. Steele's patients. The record was absolutely devoid of any evidence to indicate bias by these patients of Dr. Steele's. The only possible evidence of bias is that which may be inferred from the professional relationship per se of doctor-patient.

This precise question was considered in *McCollum v. State of Florida,* 74 So.2d 74, (1954), a criminal case, which was appealed for a refusal to discharge for cause a venireman who had sustained a physician-patient rerationship with the decedent over a course of years. The court held that a professional relationship with the in-

jured party in a criminal prosecution does not ipso facto disqualify a person to serve as a juror.

In *Johnson v. Allen,* 108 Utah 148, 158 P.2d 134, (1945), the court said that the existence of a debtor-creditor relationship between a party and a juror does not ipso facto disqualify the juror where a statute merely provides that a challenge for cause may be taken on that ground. The debtor-creditor relationship that appellant are concerned about on p. 9 of their brief was a $5.00 bill owing by Mr. Jones to Dr. Steele. (Tr. 9) Hardly consequential. Furthermore, no challenge for cause was made by appellant of this juror for that reason.

Respondent argues that when the qualifications of a juror are attacked for bias that the trial courts decision is subject to revision only when it has abused the wide discretion which it is granted. The reason is that the trial court has a better opportunity by seeing the juror and noting his manner and demeanor while under examination. The proof of juror bias must be clear and palpable. There is nothing whatsoever in the record in the instant case to indicate bias other than an inference from the doctor-patient relationship and this relationship is ipso facto not sufficient to disqualify a juror for bias.

POINT VI

ADMISSION OF THE ORIGINAL APPRAISAL EVIDENCE WAS NOT ERROR BECAUSE SUCH EVIDENCE WAS ADMITTED TO TEST THE

CREDIBILITY OF THE STATE'S EXPERT WITNESS.

Evidence of the original appraisal valuation was admitted at trial. The state furnished an original appraisal estimate which differed from the testimony later given by the same state's expert. This original appraisal evidence was, therefore, received by the court as impeachment evidence testing the credibility of the state's expert, Mr. Smith. The defendant submits that contrary to the state's assertion of error in admitting such evidence, it clearly was not error because the credibility of a witness is always subject to impeachment. A correct perspective of the impact of such evidence is essential in a land condemnation case. *Nichols on Eminent Domain* at § 18.1(3) states:

> Moreover, the modern tendency to restrict the setting aside of verdicts for errors which do not cause substantial injustice is especially noticeable in land damage cases. Such cases usually involve a protracted and expensive trial, and, as a rule, *are determined by the consideration of a mass of separate items of evidence. The admission or exclusion of one bit of testimony of questionable materiality is not likely to be of vital importance . . .*

CONCLUSION

The verdict was amply supported by competent

testimony. Applying the legal criteria governing Common-law actions the verdict is reasonable.

Technical unity of ownership is not always necessary in order to establish severance damages. Numerous courts have so recognized and there exists no single criteria on unity of ownership for purposes of determining damages in eminent domain cases. The home of Dr. Steele and his ranch were inseperable and operated together as one. Dr. Steele's uncontroverted testimony so established their integrated nature.

A relationship of doctor-patient is ipso facto insufficient to disqualify a juror for alleged bias. The admission of the original appraisal evidence was not error because the credibility of a witness is always subject to impeachment.

Respectfully submitted,

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